Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 264 (S/B) of 2003

1. Jagat Singh Dobal S/o Late Sri K.S. Dobal, presently posted as Joint Director (Technical Education) Uttaranchal, Srinagar, Pauri Garhwal
2. Kirti Chandra Oli S/o Sri Shekhara Nand Oli, presently posted as Principal Government Girls Polytechnic, Almora
3. Anand Singh Bisht S/o Sri S.S. Bisht, presently posted as Principal Government Polytechnic, Nainital
4. Dinesh Chandra Kala S/o Late Sri R.N. Kala, presently posted as Principal Government Polytechnic, Uttarkashi
5. Durga Datt Pande S/o Sri Gusain Datt Pande, presently posted as Principal Government Polytechnic, Dehradun

..... Petitioners

Versus

1. State of Uttaranchal through Principal Secretary, Department of Human Resource Development, Uttaranchal Shasan, Dehradun
2. Addl. Secretary (Technical Education) Uttaranchal Shasan, Dehradun
3. Sri M.P. Gupta, Officer on Special Duty (World Bank Project) Technical Education Department, Hariyana Government, Chandigarh

..... Respondents.

Shri Manoj Tewari, learned standing counsel for the petitioners.
Shri Arvind Vashisth, learned counsel for Respondents.

Dated: 04.10.2005

Coram:- Hon'ble P.C. Verma, J.
Hon'ble J.C.S. Rawat, J.

By means of this writ petition, the petitioners have prayed for the following reliefs:-

A. *To issue a writ, order or direction in the nature of certiorari for quashing the Office memo dated 09.04.2003 passed by Respondent No.1 (Annexure No.4 to the writ petition) whereby Respondent No.3 has been appointed as Director, Technical Education by deputation*

B. *To issue a writ, order or direction in the nature of mandamus commanding the Respondent No.1 to fill all the posts in the Department of Technical Education from the sources specified in the Service Rules.*

C. To issue a writ, order or direction in the nature of mandamus commanding the Respondent No.1 to initiate promotion exercise by constituting a Departmental Promotion Committee for filling all available vacancies on different posts in the Department.

D. To issue any suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

E. To award the cost of the writ petition in favour of the petitioners.

So far as the relief No.A is concerned, it does not survive for the reason that the term of Respondent No.3 is expired and he is not holding the post.

So far as the prayer No. B & C are concerned, we find force in the contention of learned counsel for the petitioners that once the officers' eligible for promotion on the post of Director, Technical Education is available, they would be deprived of from the right of promotion by taking the other persons on deputation. It is mandatory for the respondents to fill-up the post by promotion the persons who are eligible to be promoted on the posts in accordance with the rules.

Therefore, it is provided that if any promotions for the post of Director, Technical Education are to be made, the same shall be done in accordance with the rules.

Subject to above, the writ petition is disposed of accordingly.

(J.C.S. Rawat, J.) (P.C. Verma, J.)

Rajeev Dang